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CHASE AND THE CONSTITUTIONAL AMENDMENTS.

THE article, by Colonel Donn Piatt, in the December NORTH AMERICAN REVIEW brought out quite a number of reminiscences and letters of especial interest as matters of history. No man occupied a more prominent position, or wielded a wider influence during the troubled times that preceded and followed the late civil war. As a financier, Chief Justice Chase, then at the head of the treasury, won for himself imperishable renown during the armed conflict. This is well known, but the fact that he was the author of the constitutional provisions and much of the legislation that followed, is not so well known. This is made prominent in the letter we are permitted to give the public.

It will be observed in a study of this important document, that the amendments suggested by the Chief Justice, and subsequently adopted in the main, are without the harsh features afterwards incorporated that led to such bitterness, that the political war over reconstruction was as bitter as the armed war of secession.

Chief Justice Chase always held the intellect of the governing element of the South in high respect, even when fighting it as an abolitionist. Its courage won also his admiration when it took the field to fight for its independence. He believed in the generosity of the conqueror, and sought to have our defeated brothers brought back to their home as gently as possible.

This confidential letter, written in the greatest frankness by one friend to another, also throws light on what heretofore has been considered a mystery, and that is how it came that President Lincoln called Mr. Chase to the high position of Chief Justice of the Supreme Court. It is well known that the political and personal relations of these eminent men were far from friendly. The Secretary of the Treasury had been openly in the field as candidate for the Presidency against his chief, and candidate of

the Democratic party. The popular belief is that President Lincoln did this to put out of the way a formidable rival. A study of dates sets aside this supposition, so injurious to the memory of the President.

The author of the article on Salmon P. Chase, observing the reference to Justice Field being the first to suggest the appointment of Chief Justice, sought the eminent jurist and leading member of an illustrious family, and asked him "What it meant."

"I will tell you with the greatest pleasure," responded the Justice. "In the last year of Chief Justice Taney's life he was taken very ill, and we all believed his end to be near. Of course, no reference was made by me or any other member of the Supreme Bench to the succession until we learned that the late David Davis, of Illinois, who had great influence with Mr. Lincoln, had organized a party in behalf of the late Justice Swain. Now, while we had the greatest respect for Swain, we knew that he was not the man for a position that events had made, and were making, of such vital importance to the nation. I consulted my associate, Justice Miller, and we both selected Chase as the man of all men fitted for the place. Miller, indeed we both had our doubts as to Mr. Chase's acceptance, and I volunteered to ascertain.

"That day while walking along Pennsylvania avenue toward Willard's Hotel I met Mr. Chase, and, after the ordinary salutation, I asked him how he would like to be Chief Justice. He seemed startled and then, turning round, walked with me. He seemed to have a difficulty in getting hold of the proposition. At last he said, 'have you consulted Sumner?' I replied 'no, but I will immediately.'

"Sumner at that time lived on the corner of H and Vermont avenue. I found him at his desk, almost buried in papers, writing vigorously. I at once told my business, and, without a word of discussion, he rose saying, 'I will see the President,' and left the house.

"Chief Justice Taney recovered from his severe sickness, and the subject, of course, was dropped. As the end of our term closed, I called to pay my respects. I found him exceedingly feeble, so much so that when I gave him my photograph, which he had requested, I noticed that his sight had failed him, and I was pained

by the thought that I was looking upon his memorable form for the last time. I knew that before I could return from California another Chief Justice would be numbered with the dead. I went from his house to the Executive Mansion to say good-bye to the President. I found him pressed with affairs, but on my saying 'Mr. President, I am going to California, but before I return for the next term of court you will have to appoint a new Chief Justice,' he looked at me with an inquiring expression peculiar to him, and asked me if I could not remain a day longer. I responded, certainly. The next day he told me that, in case of a vacancy, he had made up his mind to appoint Chase, and asked me if I thought Chase would accept. I then told him what had occurred. 'That is all,' said the President, and then added 'I wonder how Katie will like it?'

In this way the eminent man was called to his true vocation. That question with which the story ends has its significance. It was well known that one of the most potent factors in the formation of the Chase party was in the winning grace and subtle tact of his accomplished daughter. Now, while President Lincoln was more amused than offended at this, his wife became furious, and kept up a war of a social sort that was far more disagreeable than effective.

Here, however, is the letter :

II.

WASHINGTON, *April 30, 1866.*

MY DEAR JUDGE: It grieved me much to hear from your brother, Mr. Cyrus W. Field, that you have been quite ill. I supposed that you were now in or very near California. You must take the best care of yourself, not only for the sake of your family but of your country, which now needs true patriotism as well as legal learning upon the bench. I feel all the interest of a warm personal friendship in your welfare. It is not in my nature to forget friends even when serious differences of judgment and political affinities come in to make separation ; and no such differences come between us. Do you remember when, just before the end of the term in the spring of 1864, you met me on the avenue, and expressed your warm wish that I might fill the place I now occupy? If you have forgotten it, I have not, nor shall I ever

forget it. It took me by surprise, but was very grateful to my feelings.

What do you think of the plan of reconstruction, or rather of completing reconstruction, presented by the Committee of Fifteen? To me it seems all very well, provided it can be carried; but I am afraid it is, as people say, rather too big a contract. So far as I have had opportunity of conversing with Senators and Representatives, I have recommended to confine constitutional amendments to two points: (1.) No payment of rebel debt and no payment for slaves; (2.) No representation beyond the constitutional basis. And, as so many are trying their heads at form, I drew up these two amendments according to my ideas, as follows:

ARTICLE 14.—*Section 1.* Representatives shall be apportioned among the several States according to their respective numbers; but wherever in any State the elective franchise shall be denied to any of its inhabitants, being male citizens of the United States, and above the age of twenty-one years, for any cause except insurrection or rebellion against the United States, the basis of representation in such State shall be reduced, in the proportion which the number of male citizens so excluded shall bear to the whole number of male citizens over twenty-one years of age.

Section 2. No payment shall ever be made by the United States for or on account of any debt contracted or incurred in aid of insurrection or rebellion against the United States; or for or on account of the emancipation of slaves.

And I proposed further that the submission of this article to the States should be accompanied by a concurrent resolution to this effect:

“That whenever any of the States which are declared to be in insurrection and rebellion by the proclamation of the President of the United States, dated July 1st, 1862, shall have ratified the foregoing article, Senators and Representatives from such ratifying State or States, ought to be admitted to seats in the Senate and House of Representatives, respectively, in the like manner as for States never declared to be in insurrection; and that, whenever the said article shall have been ratified by three-quarters of the several States, Senators and Representatives ought in like manner to be admitted from all the States.”

It has really seemed to me that on this basis the completion of reorganization by the admission of members in both Houses of Congress would be safe; and I have greatly doubted the expediency of going beyond this. In two other important respects the report of the committee does go beyond this: (1) Prohibiting the States from interfering with the rights of citizens; (2) Disfranchising all persons voluntarily engaged in rebellion until 1870, and (3) In granting express legislative power to Congress to enforce all the new constitutional provisions. Will not these

propositions be received with some alarm by those who, though opponents of secession or nullification, yet regard the real rights of the States as essential to proper working of our complex system? I do not myself think that any of the proposed amendments will be likely to have injurious effects, unless it be the sweep of the disfranchisement; but I repeat, that I fear the recommendation of too much; and, I add, that it seems to me that nothing is gained sufficiently important and sustainable by legislation to warrant our friends in overloading the ship with amendment freight.

But this letter is too long. Pardon and answer. Have you read the opinion and the dissent in the Bank case?

Yours cordially,

S. P. CHASE.

I inclose an opinion in an Admiralty case, which I think right. The question is of importance, especially in California and on the Pacific Coast.